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DEPARTMENT OF COMMERCE

International Trade Administration

C-570-054

Certain Aluminum Foil from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (the Department) preliminarily determines that countervailable subsidies are being provided to producers and exporters of certain aluminum foil (aluminum foil) from the People's Republic of China (PRC). The period of investigation is January 1, 2016, through December 31, 2016.

DATES: [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: John Corrigan at (202) 482-7438, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 703(b) of the Tariff Act of 1930, as amended (the Act). The Department published the notice of initiation of this investigation on March 30, 2017.¹ On May 17, 2017, the Department postponed the preliminary

¹ See *Certain Aluminum Foil from the People's Republic of China: Initiation of Countervailing Duty Investigation*, 82 FR 15688 (March 30, 2017) (*Initiation Notice*).

determination of this investigation and the revised deadline is now August 7, 2017.² For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.³ A list of topics discussed in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically *via* Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov>, and is available to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>. The signed and electronic versions of the Preliminary Decision Memorandum are identical in content.

Scope of the Investigation

The product covered by this investigation is aluminum foil from the PRC. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

In accordance with the preamble to the Department's regulations,⁴ the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage, (*i.e.*, scope).⁵ Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice* as well as additional language proposed by the Department. The Department intends to issue its preliminary decision regarding comments concerning the scope of the

² *See Certain Aluminum Foil from the People's Republic of China: Postponement of Preliminary Determination in the Countervailing Duty Investigation*, 82 FR 22646 (May 17, 2017).

³ *See* Decision Memorandum for the Preliminary Affirmative Determination: Countervailing Duty Investigation of Certain Aluminum Foil from the People's Republic of China," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

⁴ *See Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27323 (May 19, 1997).

⁵ *See Initiation Notice*.

antidumping duty (AD) and countervailing duty (CVD) investigations in the preliminary determination of the companion AD investigation.

Methodology

The Department is conducting this investigation in accordance with section 701 of the Act. For each of the subsidy programs found countervailable, the Department preliminarily determines that there is a subsidy, *i.e.*, a financial contribution by an “authority” that gives rise to a benefit to the recipient, and that the subsidy is specific.⁶

The Department notes that, in making these findings, it relied, in part, on facts available and, because it finds that one or more respondents did not act to the best of their ability to respond to the Department’s requests for information, it drew an adverse inference where appropriate in selecting from among the facts otherwise available.⁷ For further information, *see* “Use of Facts Otherwise Available and Adverse Inferences” in the Preliminary Decision Memorandum.

All-Others Rate

Sections 703(d) and 705(c)(5)(A) of the Act provide that in the preliminary determination, the Department shall determine an estimated all-others rate for companies not individually examined. This rate shall be an amount equal to the weighted average of the estimated subsidy rates established for those companies individually examined, excluding any zero and *de minimis* rates and any rates based entirely under section 776 of the Act. In this investigation, the Department preliminarily assigned rates based entirely on facts available to Loften Aluminum (Hong Kong) Limited (Loften HK), as well as Manakin Industries, LLC

⁶ See sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

⁷ See sections 776(a) and (b) of the Act.

(Manakin Industries). Therefore, the only rates that are not zero, *de minimis*, or based entirely on facts otherwise available, are the rates calculated for Dingsheng Aluminum Industries (Hong Kong) Trading Co., Ltd. (Dingsheng HK) and Jiangsu Zhongji Lamination Materials Co., Ltd. (Zhongji). Consequently, a simple average of the rates calculated for Dingsheng HK and Zhongji is also assigned as the rate for all-other producers and exporters.

Preliminary Determination

The Department preliminarily determines that the following estimated countervailable subsidy rates exist:

| Company | Subsidy Rate |
|--|---------------------|
| Dingsheng Aluminum Industries (Hong Kong) Trading Co., Ltd. ⁸ | 28.33 percent |
| Jiangsu Zhongji Lamination Materials Co., Ltd. ⁹ | 16.56 percent |
| Loften Aluminum (Hong Kong) Limited | 80.97 percent |
| Manakin Industries, LLC ¹⁰ | 80.97 percent |
| All-Others | 22.45 percent |

Suspension of Liquidation

In accordance with section 703(d)(1)(B) and (d)(2) of the Act, the Department will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise as described in the scope of the investigation section entered, or withdrawn from

⁸ As discussed in the Preliminary Decision Memorandum, the Department has found the following companies to be cross-owned with Dingsheng HK: Jiangsu Dingsheng New Materials Joint-Stock Co., Ltd.; Hangzhou Teemful Aluminum Co., Ltd.; Hangzhou Five Star Aluminum Co., Ltd.; Hangzhou DingCheng Aluminum Co., Ltd.; Luoyang Longding Aluminum Co., Ltd.; Hangzhou Dingsheng Industrial Group Co., Ltd.; Hangzhou Dingsheng Import & Export Co., Ltd.; and Walson (HK) Trading Co., Limited.

⁹ As discussed in the Preliminary Decision Memorandum, the Department has found the following companies to be cross-owned with Zhongji: Shantou Wanshun Package Material Stock Co., Ltd.; Jiangsu Huafeng Aluminum Industry Co., Ltd.; and Jiangsu Zhongji Lamination Materials Co., (HK) Ltd.

¹⁰ As discussed in the Preliminary Decision Memorandum, the Department preliminarily finds that Manakin Industries and Suzhou Manakin Aluminum Processing Technology Co., Ltd., effectively function by joint operation as a trading company. Therefore, the rate for Manakin Industries also applies to Suzhou Manakin Aluminum Processing Technology Co., Ltd. For additional information, *see* Preliminary Decision Memorandum.

warehouse, for consumption on or after the date of publication of this notice in the *Federal Register*. Further, pursuant to 19 CFR 351.205(d), the Department will instruct CBP to require a cash deposit equal to the rates indicated above.

Disclosure

The Department intends to disclose its calculations and analysis performed to interested parties in this preliminary determination within five days of its public announcement, or if there is no public announcement, within five days of the date of this notice in accordance with 19 CFR 351.224(b).

Verification

As provided in section 782(i)(1) of the Act, the Department intends to verify the information relied upon in making its final determination.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last verification report is issued in this investigation. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.¹¹ Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after

¹¹ See 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements).

the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues to be discussed. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230, at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

International Trade Commission Notification

In accordance with section 703(f) of the Act, the Department will notify the International Trade Commission (ITC) of its determination. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination.

Notification to Interested Parties

This determination is issued and published pursuant to sections 703(f) and 777(i) of the Act and 19 CFR 351.205(c).

Carole Showers
Executive Director, Office of Policy
performing the duties of
Deputy Assistant Secretary for Enforcement and Compliance

Dated: August 7, 2017

Appendix I

Scope of the Investigation

The merchandise covered by this investigation is aluminum foil having a thickness of 0.2 mm or less, in reels exceeding 25 pounds, regardless of width. Aluminum foil is made from an aluminum alloy that contains more than 92 percent aluminum. Aluminum foil may be made to ASTM specification ASTM B479, but can also be made to other specifications. Regardless of specification, however, all aluminum foil meeting the scope description is included in the scope.

Excluded from the scope of this investigation is aluminum foil that is backed with paper, paperboard, plastics, or similar backing materials on only one side of the aluminum foil, as well as etched capacitor foil and aluminum foil that is cut to shape.

Where the nominal and actual measurements vary, a product is within the scope if application of either the nominal or actual measurement would place it within the scope based on the definitions set forth above. The products under investigation are currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7607.11.3000, 7607.11.6000, 7607.11.9030, 7607.11.9060, 7607.11.9090, and 7607.19.6000. Further, merchandise that falls within the scope of this proceeding may also be entered into the United States under HTSUS subheadings 7606.11.3060, 7606.11.6000, 7606.12.3045, 7606.12.3055, 7606.12.3090, 7606.12.6000, 7606.91.3090, 7606.91.6080, 7606.92.3090, and 7606.92.6080. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this proceeding is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

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- II. Background
- III. Scope Comments
- IV. Scope of the Investigation
- V. Injury Test
- VI. Application of the CVD Law to Imports from the PRC
- VII. Subsidies Valuation
- VIII. Benchamrks and Interest Rates
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- X. Analysis of Programs
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- XII. Disclosure and Public Comment
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